

REMARKS/ARGUMENTS

Favorable consideration of this application is respectfully requested in view of the present amendment and the following discussion.

Upon entry of the present Amendment, Claims 10-24 will be active in this case, Claims 11, 17, and 18 having been amended and new Claims 19-24 added by the present Amendment, and Claims 1-9 having previously been canceled.

In the Final Official Action mailed on December 4, 2002, Claim 18 was rejected under 35 USC 112, 2nd para., as being indefinite; Claims 10-12, 14, 16, and 17 were rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent 5,503,141 to Kettl et al. (hereinafter “Kettl”). Claim 13 was rejected under 35 U.S.C. §103 as being unpatentable over Kettl in view of U.S. Patent 4,961,420 to Cappa et al. (hereinafter “Cappa”). Claim 15 was rejected under 35 U.S.C. §103 as being unpatentable over Kettl in further view of U.S. Patent 3,910,269 to Ansite et al. (hereinafter “Ansite”).

In response to the rejection of Claim 18 under 35 USC §112, 2nd para., as being indefinite, the language “month-piece” has been changed to —mouth-piece—consistent with the clear antecedent basis in Claim 17, at line 5. Accordingly, the outstanding rejection of Claim 18 under 35 USC §112, 2nd para., has been overcome.

Applicants acknowledge with appreciation the courtesy of the interview granted to Applicant’s representative’s on October 14, 2003. Amendments to the claims as herein presented were proposed, and arguments as hereinafter developed were presented. It was explained that in Kettl, the microphone 4 is provided at the end of the tubular member 12 extending into the Kettl mask and not at the end of the tubular member adjacent the mask. It was proposed to amend Claim 17, as presently amended, to clarify that the structure of Applicant’s invention is the opposite to Kettl’s structure, with the microphone disposed at the end of the tubular mouth-piece adjacent the flexible cap and the opposite aperture end of the

tubular mouth-piece turned away from the flexible cap. It was explained that Applicant's invention achieves a "megaphone" effect, completely lacking in Kettl, by which the advantages discussed at page 2, lines 30-32 of Applicant's Specification¹, are achieved. Agreement was reached that:

- 1) US 5,503,141 to Kettl fails to teach the microphone capsule disposed between the mouthpiece and flexible cap;
- 2) the limitation of the position of the mouthpiece with regards to the user's mouth in Claim 17 would be moved to a dependent claim; and
- 3) the finality of the office action dated December 4, 2003 would be withdrawn.

In light of the agreement reached during the October 14, 2003 interview, Applicants respectfully request the withdrawal of the outstanding grounds for rejections and removal of the finality of the outstanding grounds for rejection.

As discussed during the October 14, 2003 interview, Claims 19-24 are newly submitted. Claims 19 and 20, reciting an acoustic chamber having a plurality of holes and the acoustic characteristics of this chamber, are supported by the subject matter disclosed on page 3, lines 11-18 of Applicants' Specification. Such an acoustic chamber provides for better acoustic filtering performance, including achievement of a high-pass filter with a cutoff frequency in the range of 100 Hz. Claims 21 and 22, reciting that the height of the mouth-piece is adjustable, are supported by the subject matter disclosed on page 4, lines 1-10. Such an adjustable feature permits the optimal placement of the microphone assembly as well as the ability to change the positional height of the mouth-piece aperture in the mask taking into account the morphology of the bottom of the mask and the user's face. Claim 23 recites the additional feature of a body mounted on a wall of the flexible cap and an arm extending from

¹ These features include the improvement of the acoustic characteristics of existing breathing masks, including sensitivity to parasitic noises, limited non-flat, pass-band response, acoustic saturation when the user speaks loudly and, in particular, unsatisfactory acoustic performance when the conditions of use are poor or when specific conditions, such as voice recognition, have to be implemented.

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the body and supporting the tubular mouth-piece at the first distal end of the tubular mask adjacent the first microphone capsule. Support for the subject matter of Claim 23 is found on FIGS. 2 and 3 of Applicants' Specification. Finally, new Claim 24 recites that the aperture of the tubular mouth-piece is turned towards a center location at which a user's mouth is adapted to be positioned, the mouth-piece has a longitudinal axis passing substantially through the center of the location recited in Claim 17, with the aperture defining a plane which is substantially perpendicular to the longitudinal axis. The features now recited in Claim 24 were previously recited in Claim 17, but they were moved to a dependent claim, as agreed during the October 14, 2003 interview, insofar as amended Claim 17 is clearly believed to be patentably distinguishing even without the features removed to new Claim 24.

Consequently, in light of the above discussion, it is respectfully submitted that Claims 10-24 patentably define over the cited prior art and are in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Eckhard H. Kuesters
Registration No. 28,870
Attorney of Record

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)

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